

104TH CONGRESS
1ST SESSION

S. 1109

To direct the Secretary of the Interior to convey the Collbran Reclamation Project, Colorado, to the Ute Water Conservancy District and the Collbran Conservancy District, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2 (legislative day, JULY 10), 1995

Mr. CAMPBELL (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to convey the Collbran Reclamation Project, Colorado, to the Ute Water Conservancy District and the Collbran Conservancy District, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 In this Act:

5 (1) DISTRICTS.—The term “Districts” means
6 the Ute Water Conservancy District and the
7 Collbran Conservancy District (including their suc-
8 cessors and assigns).

1 (2) FEDERAL RECLAMATION LAWS.—The term
2 “Federal reclamation laws” means the Act of June
3 17, 1902 and Acts amendatory thereof or supple-
4 mentary thereto (32 Stat. 388, chapter 1093; 43
5 U.S.C. 371 et seq.) (including regulations adopted
6 pursuant to those Acts).

7 (3) PROJECT.—The term “Project” means the
8 Collbran Reclamation Project, as constructed and
9 operated under the Act of July 3, 1952 (66 Stat.
10 325, chapter 565), including all property, equip-
11 ment, and assets of or relating to the Project that
12 are owned by the United States, including—

13 (A) Vega Dam and Reservoir (but not in-
14 cluding recreation facilities owned by the
15 United States or the State of Colorado);

16 (B) Leon-Park Dams and Feeder Canal;

17 (C) Southside Canal;

18 (D) East Fork Diversion Dam and Feeder
19 Canal;

20 (E) Bonham-Cottonwood Pipeline;

21 (F) Snowcat Shed and Diesel Storage;

22 (G) Upper Molina Penstock and Power-
23 plant;

24 (H) Lower Molina Penstock and Power
25 Plant;

1 (I) the diversion structure in the tailrace of
2 the Lower Molina Powerplant;

3 (J) all substations and switchyards;

4 (K) all rights relating to access to and the
5 use of the storage reservoirs on the Grand
6 Mesa;

7 (L) all easements relating to access to and
8 use of such property and assets on lands of the
9 United States;

10 (M) all rights-of-way and other real prop-
11 erty interests;

12 (N) all permits and contract rights;

13 (O) all equipment, parts inventories, and
14 tools;

15 (P) all additions, replacements, better-
16 ments, and appurtenances to any of the above;
17 and

18 (Q) a copy of all data, plans, designs, re-
19 ports, records, or other materials, whether in
20 writing or in any form of electronic storage re-
21 lating specifically to the Project.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

1 **SEC. 2. CONVEYANCE.**

2 (a) IN GENERAL.—The Secretary shall convey to the
3 Districts all right, title, and interest of the United States
4 in and to the Project by quit claim deed and bill of sale,
5 without warranties, on or before the date that is 90 days
6 after the date of enactment of this Act, subject only to
7 the requirements of this Act.

8 (b) PAYMENT.—

9 (1) IN GENERAL.—Before or simultaneously
10 with conveyance of the Project, the Districts shall
11 pay to the United States \$11,147,000 (\$8,747,000
12 of which represents the net present value of the out-
13 standing repayment obligations of the Districts), of
14 which—

15 (A) \$10,747,000 shall be deposited in the
16 general fund of the United States Treasury;
17 and

18 (B) \$400,000 shall be deposited in a spe-
19 cial account in the United States Treasury and
20 shall be available to the United States Fish and
21 Wildlife Service, region 6, without further Act
22 of appropriation, for use in funding Colorado
23 operations and capital expenditures associated
24 with the Recovery Implementation Program for
25 Endangered Fish Species in the Upper Colo-
26 rado River Basin.

1 (2) SOURCE OF FUNDS.—Funds for the pay-
2 ment to the extent of the amount specified in para-
3 graph (1)(A) shall not be derived from the issuance
4 or sale, prior to the conveyance, of State or local
5 bonds the interest on which is exempt from taxation
6 under section 103 of the Internal Revenue Code of
7 1986.

8 (c) OPERATION OF PROJECT.—

9 (1) IN GENERAL.—The Project shall be oper-
10 ated and used by the Districts for a period of 40
11 years after the date of enactment of this Act for the
12 purposes for which the Project was authorized under
13 the Act of July 3, 1952 (66 Stat. 325, chapter 565).

14 (2) REQUIREMENTS.—During the 40-year pe-
15 riod described in paragraph (1)—

16 (A) the Districts shall annually submit to
17 the Secretary a plan for operation of the
18 Project, which plan shall—

19 (i) report on Project operations for
20 the previous year;

21 (ii) provide a description of the man-
22 ner of Project operations anticipated for
23 the forthcoming year; and

24 (iii) certify that the Districts have op-
25 erated and will operate and maintain the

1 Project facilities in accordance with sound
2 engineering practices; and

3 (B) subject to section 3, all electric power
4 generated by operation of the Project shall be
5 provided to and marketed by the Western Area
6 Power Administration (including its successors
7 and assigns).

8 (d) AGREEMENTS.—Conveyance of the Project shall
9 be subject to the agreements between the United States
10 and the State of Colorado dated August 22, 1994, and
11 September 23, 1994, relating to the construction and op-
12 eration of recreational facilities at Vega Reservoir, which
13 agreements shall continue to be performed by the parties
14 thereto according to the terms of the agreements.

15 **SEC. 3. OPERATION.**

16 (a) CONFORMITY TO HISTORIC OPERATIONS.—The
17 power component and facilities of the Project shall be op-
18 erated in substantial conformity with the historic oper-
19 ations of the power component and facilities (including re-
20 cent operations in a peaking mode).

21 (b) POWER MARKETING.—

22 (1) UNDER EXISTING AGREEMENTS.—The Dis-
23 tricts shall be bound by the agreements between the
24 Bureau of Reclamation and the Western Area Power
25 Administration in existence on the date of enactment

1 of this Act, which provide for the marketing of
2 power generated by the power component of the
3 Project as part of the output of the Salt Lake City
4 Area Integrated Projects under the Post 1989 Oper-
5 ating Criteria, until those agreements expire or are
6 terminated.

7 (2) AFTER EXPIRATION OF EXISTING AGREE-
8 MENTS.—

9 (A) IN GENERAL.—After the agreements
10 described in paragraph (1) expire or are termi-
11 nated, except as provided in subparagraph (B),
12 the Districts shall provide all power produced
13 by the power component of the Project to the
14 Western Area Power Administration at a rate
15 that—

16 (i) is sufficient to provide for the an-
17 nual debt service, cost of capital, and oper-
18 ation (including maintenance and replace-
19 ment) of the Project; and

20 (ii) is determined in a manner that is
21 consistent with the principles and assump-
22 tions followed by the Western Area Power
23 Administration as of the date of enactment
24 of this Act in its annual power repayment
25 study for the Project.

1 (B) UNACCEPTABLE RATE.—If the West-
2 ern Area Power Administration declines to mar-
3 ket the power at a rate described in subpara-
4 graph (A), or if the rate at which the power
5 would be marketed by Western Area Power Ad-
6 ministration would not provide sufficient reve-
7 nue to enable the Districts to recoup their cost
8 of capital and operate, maintain, and replace
9 the power component of the Project in accord-
10 ance with sound engineering practices, the Dis-
11 tricts may sell the power to entities other than
12 the Western Area Power Administration.

13 (c) LICENSE.—The Districts are by this Act granted
14 a license under the Federal Power Act (16 U.S.C. 791a
15 et seq.) for the operation of the Project in accordance with
16 the requirements of section 2(c), for a period of 40 years
17 after the date of conveyance of the Project, after which
18 period the license may be renewed in accordance with ap-
19 plicable law.

20 **SEC. 4. INAPPLICABILITY OF NEPA.**

21 The conveyance of the Project does not constitute a
22 major Federal action within the meaning of the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.) (including regulations issued under that Act).

1 **SEC. 5. INAPPLICABILITY OF PRIOR AGREEMENTS AND OF**
2 **FEDERAL RECLAMATION LAWS.**

3 On conveyance of the Project to the Districts—

4 (1) the Repayment Contract dated May 27,
5 1957, as amended April 12, 1962, between the
6 Collbran Conservancy District and the United
7 States, and the Contract for Use of Project Facili-
8 ties for Diversion of Water dated January 11, 1962,
9 as amended November 10, 1977, between the Ute
10 Water Conservancy District and the United States,
11 shall be terminated and of no further force or effect;
12 and

13 (2) the Project shall no longer be subject to or
14 governed by the Federal reclamation laws.

15 **SEC. 6. LIABILITY.**

16 (a) DISTRICTS.—The Districts shall be liable for all
17 acts or omissions relating to the operation and use of the
18 Project that occur subsequent to the conveyance.

19 (b) UNITED STATES.—The United States shall retain
20 any liability that exists under any law for latent defects
21 in the Project.

○